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November 17, 2016

VIA ECF

The Honorable Gregory H. Woods
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007

MEMORANDUM ENDORSED

Re: *Karner v. MGT Capital Investments, Inc., et al.*
Case No. 1:16-cv-07423-GHW

Dear Judge Woods:

Plaintiff Kurt Karner ("Plaintiff") submits this letter motion requesting adjournment of the initial conference currently scheduled for November 22, 2016, and an extension of time to file the related joint letter, which was due on November 15, 2016. *See* ECF No. 5. As grounds for this request, Plaintiff offers that: (1) counsel for the defendants have not appeared in this case and Plaintiff's counsel is unaware of the identity of said counsel; and (2) the action is subject to the procedures set forth in the Private Securities Litigation Reform Act of 1995 (the "PSLRA") for the appointment of a "lead plaintiff." Accordingly, Plaintiff respectfully requests that the initial conference date and the related joint letter due date be rescheduled to a date after counsel for the defendants have made their appearances in this action and a lead plaintiff has been appointed pursuant to the process set forth in the PSLRA.

The complaint in this action was filed on September 22, 2016, and an electronic summons was issued as to Defendants MGT Capital Investments, Inc. ("MGT Capital") and Robert B. Ladd ("Ladd") (collectively, "Defendants") on September 23, 2016. *See* ECF Nos. 1, 2, and 4. While MGT Capital, of whom Defendant Ladd is the President and Interim Chief Financial Officer, was served on October 27, 2016 (*see* ECF No. 6), neither of the Defendants or counsel representing them have made an appearance in this case. As such, Plaintiff has been unable to confer with Defendants regarding the joint letter that was to be filed on November 15, 2016.

Moreover, the claims alleged in this action arise under the Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), as amended by the PSLRA (15 U.S.C. §

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78u-4). As required by the PSLRA, this action is subject to a lead plaintiff appointment process whereby class members may petition the court to be appointed lead plaintiff no later than sixty days after notice of the class action was published. *See* 15 U.S.C. § 78u-4(a)(3). Notice of the case was published on September 23, 2016,¹ and motions for appointment as lead plaintiff are expected to be filed on November 21, 2016. Thereafter, this Court must appoint the “most adequate plaintiff” to serve as lead plaintiff. *Id.* The lead plaintiff is granted the power to select and retain counsel to represent the class, subject to the court’s approval. *See* 15 U.S.C. § 78u-4(a)(3)(B)(v). Since the lead counsel appointed by the Court will be responsible for prosecuting this action and conducting discovery, adjourning the initial conference until after the lead plaintiff is appointed and lead counsel is selected would serve judicial efficiency and allow the appropriate counsel to have input into the scheduling of this action.

There have been no prior requests for adjournment or extension of time in this action. Plaintiff has not obtained Defendants’ consent to this request because Plaintiff has not been in contact with Defendants nor has counsel for Defendants appeared in this action.

Plaintiff respectfully requests adjournment of the initial conference and an extension of time to file the related joint letter until after the PSLRA lead plaintiff appointment process is complete and counsel for Defendants have appeared.

Sincerely,

s/ Lesley F. Portnoy


Lesley F. Portnoy

Plaintiff’s November 18, 2016 request to adjourn the initial pretrial conference, Dkt. No. 8, is granted in part. The initial pretrial conference scheduled for November 22, 2016 is adjourned to December 20, 2016 at 4:30 p.m. The joint status letter described in the Court’s October 31, 2016 order, Dkt. No. 5, is due no later than December 13, 2016

Plaintiff is directed to serve a copy of this order on Defendants and to retain proof of service.

SO ORDERED.

Dated: November 18, 2016
New York, New York


GREGORY H. WOODS
United States District Judge